

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/489,143  
Applicant : William J. Baer  
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TC/A.U. : 2178  
Examiner : Basehoar, Adam L  
Customer No. : 46157  
Docket No. : STL920000020US1 (0920.0041C)  
Title : Method and System for Calculating Cost of a Compilation  
of Content

Commissioner for Patents  
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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Sir:

Applicants respectfully request a Pre-Appeal Brief Review of the outstanding issues raised in the Final Office Action of April 1, 2010. Applicants believe there exist clear errors in the Examiner's Final rejections for at least the reasons discussed below.

**PRESENT INVENTION EMBODIMENTS**

Present invention embodiments are directed toward a system, method and data storage device for creating a content object from a group of content entities. Each content entity is contained in a separate file object. A list or outline containing container and non-container identifiers defines the content, order and structure of the content object. This list or outline is stored as a separate file object. In addition, the present invention calculates the content object cost by estimating the amount of content it contains and determining a content cost based upon the content estimate. Optionally, a cost is assigned to each content entity in the data repository and these actual costs are summed as part of the cost estimation procedure.

As an example with respect to generation of a content object in the form of a book, the book structure may include volumes each with one or more chapters, where each chapter, in turn, may include one or more sections. The content of the chapter sections resides in the data repository as individually accessible files each containing a section (or content entity). A user may construct and arrange the book (e.g., into volumes, chapters, sections, etc.) with content (e.g., text, images, etc.) selected from the data repository. In addition, the book's cost is calculated by estimating the amount of content it contains and determining a content cost based upon the content estimate. Optionally, a cost is assigned to each content entity in the data repository and these actual costs are summed as part of the cost estimation procedure.

#### FINAL REJECTIONS

The Examiner has rejected claims 1 - 2, 7 - 10, 15 - 18, and 23 - 24 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,147,768 (Norris) in view of U.S. Patent No. 6,072,479 (Ogawa). In addition, the Examiner has further rejected claims 3 - 6, 11 - 14, and 19 - 22 under 35 U.S.C. §103(a) as being unpatentable over the combination of the Norris and Ogawa patents, in further view of U.S. Patent No. 5,768,521 (Dedrick).

Initially, independent claims 1, 9, and 17 recite the features of: generating an estimated content count, wherein the digital data within the selected content entities are utilized to determine the estimated content count representing the estimated quantity of content within the content object; and the estimated price being determined based on a price per unit of content, wherein the unit of content represents a predetermined quantity of content and the estimated content count indicates an estimated quantity of units of content for the selected content entities.

The Examiner concedes (e.g., at Page 4 of the Office Action) that the Norris patent does not disclose these features. The Ogawa patent does not compensate for the deficiencies of the Norris patent, and similarly does not disclose, teach, or suggest these features. Rather, the Ogawa patent discloses a scenario editing system with a calculation module calculating sizes of actual media data and adding up the media data sizes to estimate a total size of an overall application, based on a media-dependent attribute. A media attribute input module allows a user to enter the name of a person in charge and scheduled development time as an attribute, wherein the calculation module adds up actual media creation costs for calculation of an estimate of the cost of each media type and an overall application.

Although the Ogawa patent discloses a calculation module for calculating the size of each object (e.g., See Column 11, lines 45 - 49), the size calculation is utilized as an estimate for comparison with a communication capacity to provide an indication of response time and application quality (e.g., See Column 2, lines 42 - 48; and Column 12, lines 43 - 45). Thus, there is no disclosure, teaching or suggestion of the size of the objects being utilized to generate an estimated price as recited in the claims.

In addition, the Ogawa patent discloses the formulas utilized to calculate the size of the objects. With respect to voice data, the size is determined from the number of channels, the number of bits (presumably per channel), the sampling rate and the compression ratio (e.g., See Column 11, lines 56 - 62). The size of still picture data is determined from the screen display size, the number of bits (based on the quantity of colors used) and the compression ratio (e.g., See Column 12, lines 1 - 4). The size of moving picture data is determined from the screen display size, the number of bits (presumably based on the quantity of colors used), the frame

rate, and the compression ratio (e.g., See Column 12, lines 11 - 14). Thus, the object size is apparently determined from characteristics of presentation mechanisms (e.g., channels, display size, frame rate, compression ratio), rather than being determined from the actual digital data within the objects as recited in the independent claims.

Moreover, the Ogawa patent discloses that the calculation module may further determine the development cost of the application (e.g., See Column 13, lines 46 - 48). However, the development cost is determined with development time as the base (e.g., See Column 13, lines 48 - 50). In particular, the formulas provided by the Ogawa patent calculate the cost as the product of development time (hours) and cost per hour (e.g., See Column 13, lines 59 - 62; and Columns 14, lines 1 - 3 and 10 - 12). Accordingly, there is no disclosure, teaching or suggestion of the estimated price being determined based on a price per unit of content, wherein the unit of content represents a predetermined quantity of content and the estimated content count indicates an estimated quantity of units of content for the selected content entities. In other words, the Ogawa patent determines the cost based on development time (or man hours) and the price per hour, whereas the claims recite the estimated cost to be based on the price for a unit of content and the quantity of those units within the content object.

The Dedrick patent similarly does not compensate for the deficiencies of the Norris and Ogawa patents. Rather, the Dedrick patent discloses a computer network system that contains a metering mechanism which can meter the flow of electronic information to a client computer within a network (e.g., See Abstract; Column 1, lines 62 - 65; and Column 2, lines 43 - 64). The information can be generated by a publisher and electronically distributed. The publisher/advertiser is provided with tools to create electronic information transmitted over the

system (e.g., See Abstract; Column 1, lines 65 - 66; and Column 4, lines 26 - 51). The client computers each contain a graphical user interface to request consumption of the information (e.g., See Abstract; Column 2, lines 2 - 4; and Column 3, lines 13 - 30). The metering mechanisms control the transfer of information to the client computers (e.g., See Abstract; Column 2, lines 4 - 6; and Column 3, lines 46 - 59). Each unit of information has an associated cost type and cost value that are used to calculate a price for the information (e.g., See Abstract; Column 2, lines 7 - 10; and Column 3, lines 60 - 63).

Thus, the Dedrick patent discloses a publisher creating information for access by an end-user and the price being calculated for the end-user to access or download that information based on a cost type and cost value. There is no disclosure, teaching or suggestion of an estimated price being determined based on a price per unit of content, wherein the unit of content represents a predetermined quantity of content and the estimated content count indicates an estimated quantity of units of content for the selected content entities as recited in the independent claims.

In view of the foregoing, Applicants respectfully request withdrawal of the outstanding rejections, and allowance of the application.

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